

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

ETHEL EILEEN KNOBLAUCH
Claimant

VS.

PRESTIGE GRAPHICS, INC.
Respondent

AND

**TRUCK INSURANCE EXCHANGE
THOMAS MCGEE & SONS AND
UTICA MUTUAL INSURANCE CO.**
Insurance Carrier

AND

KANSAS WORKERS COMPENSATION FUND



Docket No. 187,826

ORDER

Respondent and its insurance carrier, Utica Mutual Insurance Company, appealed an Order entered by Administrative Law Judge John D. Clark on March 5, 1996.

ISSUES

Respondent and its insurance carrier, Utica Mutual Insurance Company, raised the following single issue for Appeals Board review:

- (1) Whether the Administrative Law Judge exceeded his jurisdiction in quashing the subpoena of the respondent directing the Crime Victims Compensation Board to produce any and all materials relating to the claimant.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the file and considering the briefs of the parties, the Appeals Board finds as follows:

Before the Appeals Board can address the merits of this appeal, it must first determine whether it has jurisdiction to review the Order at this juncture of the proceeding. This matter came on before the Administrative Law Judge on the motion of the Kansas Attorney General to quash a subpoena duces tecum served on Frank Henderson, Director of Kansas Attorney General Stovall's Crime Victims Compensation Program. The respondent, through its insurance carrier Utica Mutual Insurance Company, served this subpoena commanding Mr. Henderson to appear before a certified court reporter to testify in this matter and to bring with him all file materials pertaining to or relating to the claimant. The Administrative Law Judge heard oral argument of the parties, including a

representative of the Kansas Attorney General, on March 5, 1996 and thereafter entered the order to quash the subpoena.

The Appeals Board finds that the order of the Administrative Law Judge that quashed the subpoena is interlocutory in nature and made during the litigation of a workers compensation case. This is not a final order that can be reviewed pursuant to K.S.A. 44-551, as amended by S.B. 659 (1996). Neither is it an order that came before the Administrative Law Judge pursuant to the preliminary hearing statute K.S.A. 44-534a, as amended by S.B. 659 (1996), as preliminary hearing orders are limited to issues of furnishing medical treatment and payment of temporary total disability compensation. The Order now before the Appeals Board pertains to an interlocutory matter that the Administrative Law Judge has the authority to adjudicate, if called upon, during a workers compensation proceeding.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Application for Review filed by the respondent and its insurance carrier, Utica Mutual Insurance Company, should be, and is hereby, dismissed.

IT IS SO ORDERED.

Dated this ____ day of May 1996.

BOARD MEMBER _____

BOARD MEMBER _____

BOARD MEMBER _____

- c: James B. Zongker, Wichita, Kansas
- Gary Winfrey, Wichita, Kansas
- Kirby A. Vernon, Wichita, Kansas
- Laura Thompson, Overland Park, Kansas
- Joel P. Hesse, Wichita, Kansas
- John Cassidy, Topeka, Kansas
- John D. Clark, Administrative Law Judge
- Philip S. Harness, Director